

SECTION 608

APPLICABILITY DETERMINATION*

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NOTE: This guidance is quoted verbatim from a USEPA Applicability Determination (AD) #59 received from the USEPA ODS Hotline Office: Telephone: 800-296-2996. Also see paragraph F.3.f of this chapter.

Record Number 59
Key Words Disposal
 Appliance

REFERENCES: 82.156(f)

QUESTION: There are instances in which small appliances, MVAC and MVAC-like appliances (hereafter referred to as “appliances”) arrive at a disposal facility and the disposal facility is uncertain whether EPA would consider these appliances subject to the disposal regulations of 82.154(f). Would the following circumstances result in appliances being subject to the safe disposal regulations:

- (1) an appliance in which some components of the refrigerant system have been removed;
- (2) a disposal facility receiving portions of the refrigerant system (i.e., compressor)
- (3) an appliance in which the entire refrigerant systems has been removed; or
- (4) an appliance which has previously been through a process in which refrigerant would have been released or recovered.

RESPONSE: Section 82.156(f)(2) states that persons who take the final step in the disposal process must either recover remaining refrigerant or verify that refrigerant has been evacuated previously. Such verification must include a signed statement from the person from whom the appliance is obtained that all refrigerant that had not leaked previously has been recovered from the appliance. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered, or rather than a certification statement, a person may obtain a contract stating that one party has the responsibility to remove refrigerant from the equipment before delivery.

The circumstances presented in the questions above have been addressed previously in Applicability Determination #8 dated August 6, 1993. In the Applicability Determination, EPA responded to the question of how “disposers comply with verification requirements where the refrigeration unit must have been removed from the appliance prior to delivery of the appliance.” EPA stated that “if such appliance contain several different components, and the component responsible for the refrigeration can be isolated and removed from the rest of the appliance, then the remaining parts are no longer subject to the requirements of the regulation in that they no longer contain a class I or class II substance used as a refrigerant.” The answer provided in Applicability Determination #8 can be applied to the first and second questions presented above.

(1) An appliance in which some components of the refrigerant system have been removed; If a disposal facility receives an appliance in which some of the components of the refrigerant system have been removed (i.e., the compressor), EPA believes that these types of appliances are subject to the safe disposal regulations. As stated in Applicability Determination #8, if the components can be isolated and removed then the remaining parts are no longer subject to the safe disposal regulations. In the scenario presented above, portions of the refrigerant system remain in the appliance and the components have not been isolated and removed. Therefore, the appliance continues to meet the regulatory definition of an appliance as a device which contains and uses a class I or class II refrigerant. Therefore, an appliance with portions of the refrigerant system remaining are subject to the safe disposal regulations.

(2) A disposal facility receiving portions of the refrigerant system (i.e., compressor)

If a disposal facility receives the refrigerant system (i.e., the compressor) rather than the appliance shell, EPA believes that the refrigerant system is an appliance as it is a “device which contains or uses a class I or class II substance as a refrigerant”. Therefore, the person who takes the final disposal step in the disposal of the refrigerant system must comply with the safe disposal requirements.

(3) An appliance in which the entire refrigerant system as been removed

If disposal facility receives an appliance in which the entire refrigerant system has been removed, EPA believes that these appliances are not subject to the safe disposal regulations. They are no longer appliances which contain or use a refrigerant. However, if the disposal facility is not certain that the entire refrigerant system has been removed or has no basis to believe that the appliance is an empty shell, then the facility should obtain a verification statement.

(4) An appliance which has previously been through a process in which refrigerant would have been released or recovered.

If a disposal facility receives an appliance which has been put through a process which refrigerant would have been released or recovered previously (i.e., crushing), EPA believes that these appliances are no longer subject to the safe disposal regulations. If an appliance has been crushed or no longer resembles an appliance in its manufactured state than it no longer meets the regulatory definition. The person responsible for compliance with the safe disposal regulations is the entity upstream which conducted the process where the refrigerant was released if not properly recovered.